FORUM ON WASHINGTON COMMERCIAL CORRIDOR FEASIBILITY STUDY

Legal and Institutional Issues

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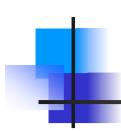
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OVERVIEW

- Role of legal consultants

- Drivers of legal and institutional framework

- Public-private partnerships (PPPs)

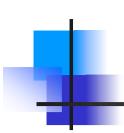- Governance models for WCC

- Next steps

ROLE OF LEGAL CONSULTANTS

- Advise on alternate legal/institutional frameworks

- Describe lessons learned from other projects

- Recommend structure and enabling legislation

DRIVERS OF LEGAL/ INSTITUTIONAL FRAMEWORK

- Attributes of large corridor projects
  - Local, state and national significance
  - Social, economic and environmental impacts at all levels
  - Numerous public and private stakeholders
  - Long-term
  - Strategic
  - Need for significant, non-traditional private sector involvement
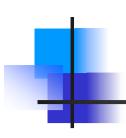
PUBLIC-PRIVATE PARTNERSHIPS (PPPs)

- What is a PPP?

  - Innovative collaboration

  - Between public and private sectors

  - That expands upon traditional private sector participation

  - In infrastructure project planning, design, financing, construction, operation and maintenance
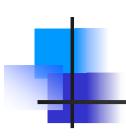
PUBLIC-PRIVATE PARTNERSHIPS (PPPs)

- Why consider a PPP?

  - Each lacks complete set of "tools" for successful major corridor development

  - Harness best of both sectors

Public Strengths	Private Strengths
Legal authority	Entrepreneurial attitude
Accountability	Efficiency
Purpose to serve public good	Innovation
Public funding	Private financing and capital
Power to assemble land	Market knowledge
Regulatory control	Technical expertise and experience

PUBLIC-PRIVATE PARTNERSHIPS (PPPs)

Key ingredients for a successful PPP

Public Agency Needs	Private Entity Needs
Mission focused on project	Same
Sound and sufficient legal authority	Same
Environmental protection	Defensible environmental process; feasible corridor selection; clear and affordable mitigation
Public involvement	Good public relations

PUBLIC-PRIVATE PARTNERSHIPS (PPPs)

Key ingredients for a successful PPP

Public Agency Needs	Private Entity Needs
Project control and oversight to protect public interest	Flexibility in design, schedule; clear and reasonable standards
Financing capability and feasibility with private sector participation	Same, with public sector participation
Authority to acquire, use and lease corridor	Public assembly of corridor; rights of entry and use
Cost certainty and reasonableness	Protection from uncontrollable cost risks; reasonable profit

GOVERNANCE MODELS FOR WCC

- Institutional Alternatives
  - Existing agency (e.g. WSDOT)
    - Precedent: TxDOT TransTexas Corridors, CDOT T-REX project
  - Joint powers authority
    - Precedent: Alameda Corridor Transportation Authority
  - New single purpose governmental agency
    - Precedent: Seattle Popular Monorail Authority, Gold Line Construction Authority, Orange County Transportation Corridors Agencies

GOVERNANCE MODELS FOR WCC

- Authority Issues
  - Agency control
    - Who should control its decisions? What is proper balance for representing statewide and local constituencies?
  - Environmental protection
    - How should environmental review process be structured? Agency role? Private sector role?
  - WCC master planning
    - What other agencies should be consulted? What is best private sector role?
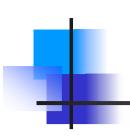
GOVERNANCE MODELS FOR WCC

- ## Authority Issues

  - ### Corridor acquisition and management

    - What should be agency's condemnation authority? Leasing and sale authority?

  - ### Financing

    - Power to impose user fees? Taxes? Developer fees? Other revenue-raising measures? Power to issue debt?

  - ### Procurement and contracting

    - What authority is needed to optimize PPP formation, move beyond the traditional?

NEXT STEPS

- Finish research and study of legal/institutional issues

- Identify and evaluate precedent, alternatives

- Derive lessons learned from other projects

- Identify legislative needs

- Issue report

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